

### **REMARKS**

Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Claims 25 to 55 are pending in the present application. Claim 55 has now been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1 to 24 were previously canceled without prejudice or disclaimer of the subject matter claimed therein. Claim 25 has been amended. No new matter is added.

### **Interview Summary**

Applicants appreciatively acknowledge the courtesy and effort extended by the Examiner to their representative, Richard J. Katz, during a September 17, 2009 telephonic Examiner Interview. During the Interview the above amendment to independent claim 25 was discussed. The Examiner indicated that he would favorably consider this amendment to claim 25 as placing the claim in condition for allowance. Also discussed was the examination of dependent claim 55, which the Examiner acknowledged was not examined by the present Office Action as presented in the response filed April 8, 2009. The Examiner indicated that dependent claim 55 contains allowable subject matter.

### **Rejections Under 35 U.S.C. § 103**

Claims 25-26 and 29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,614,763 of Kikuchi et al. ("Kikuchi"). Claims 25 to 52 and 55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication 2003/0126256 to Cruickshank et al. ("Cruickshank") in view of Kikuchi. Claims 53 and 54 were rejected under

35 U.S.C. § 103(a) as being unpatentable over Cruickshank and Kikuchi in view of Official Notice. Claim 55 has been canceled, thus, rendering the rejection of claim 55 moot.

Independent claim 25 of the present application has now been amended to recite “sending measurement packets from a first measuring computer to a second measuring computer over a measurement path with an exponentially adjusted time distribution between the measurement packets so as to determine first status information regarding the measurement path.” Support for the amendment may be found, for example, at ¶ 0047 of the Specification. Claim 25 now recites the subject matter of canceled dependent claim 55, which the Examiner indicated contained allowable subject matter during the September 17th telephonic Examiner Interview.

Accordingly, neither Kikuchi nor Cruickshank singly, or in combination to the extent proper, could render amended independent claim 25, or any of its dependent claims 26-54, obvious.

Reconsideration and withdrawal of the respective rejections of claims 25 to 54 under 35 U.S.C. §103(a) based on respective combinations of Kikuchi, Cruickshank, and Official Notice is respectfully requested.

**CONCLUSION**

In view of the foregoing it is believed that claims 25 to 54 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

The Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this submission, including any additional filing or application processing fees required under 37 C.F.R. §1.16 or 1.17, or to credit any overpayment, to Deposit Account No. 04-0100.

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Respectfully submitted,

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